

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

PRIME TIME HEALTHCARE, LLC,

Plaintiff,

vs.

SUNNY RIDGE OPERATIONS, LLC,

Defendant.

**8:24CV485****ORDER ON STIPULATED MOTION TO  
REMAND**

This case is before the Court on the parties' Stipulated Motion to Remand, signed by counsel for the parties. [Filing 24](#). The parties ask the Court to remand this case pursuant to [28 U.S.C. § 1447\(c\)](#) to the District Court of Douglas County, Nebraska, at Case No. CI 24-8152, before the Honorable Peter C. Bataillon, as the parties agree that this Court lacks subject matter jurisdiction to preside over this case. [Filing 24 at 1](#). The parties agree further that their motion should not be construed as an admission that limits the right of any party to assert that any stipulations, Initial Disclosures, or other orders in this federal proceeding should or should not be considered by the state court hereafter in determining how such state litigation should proceed.

The parties' Stipulated Motion standing alone is insufficient basis for the Court to concede that it lacks subject-matter jurisdiction. The parties cannot simply agree as to whether subject-matter jurisdiction exists; the record in front of the Court must support any remand to state court.

This case was removed on the basis of diversity of citizenship jurisdiction. *See Filing 1 at 1* (¶ 3). The removing defendant has the burden of establishing diversity jurisdiction. *Pecherski v. Gen. Motors Corp.*, 636 F.2d 1156, 1159 (8th Cir. 1981). Both Plaintiff and Defendant in this case are limited liability companies (LLCs). [Filing 1 at 1](#). However, "an LLC's citizenship is that of its members for diversity jurisdiction purposes." *GMAC Com. Credit LLC v. Dillard Dep't Stores*,

*Inc.*, 357 F.3d 827, 829 (8th Cir. 2004). Plaintiff's Second Amended Disclosure of Corporate Affiliations, Financial Interest, and Business Citizenship states in pertinent part,

Prime Time Healthcare LLC is a limited liability corporation and its members and their states of citizenship are as follows: Fortis Healthcare Solutions, LLC, a Delaware limited liability company.

Ownership of Fortis Healthcare Solutions, LLC, is via several layers of limited liability companies and limited partnerships. At the pinnacle of these layers are multiple entities, one of which is another Delaware limited liability company, OEP VIII GP, L.L.C., that is understood to have four individual members. Two of these four members are citizens of New York, Richard Cashin and Gregory Belinfanti, and two are citizens of Illinois, Theodora Stojka and Jessica Marion.

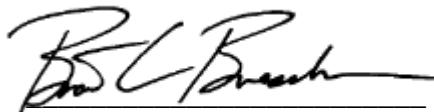
Filing 23 at 2. Because this disclosure does not establish the citizenship of each of Prime Time Healthcare's members down through the layers of membership, Defendant has made no showing that the parties are diverse for jurisdictional purposes. *GMAC Com. Credit LLC*, 357 F.3d at 829. Consequently, remand for lack of diversity subject-matter jurisdiction is appropriate. 28 U.S.C. § 1447(c).

Accordingly,

IT IS ORDERED that the parties' parties' Stipulated Motion to Remand, Filing 24, is granted, and this matter is remanded pursuant to 28 U.S.C. § 1447(c) to the District Court of Douglas County, Nebraska, at Case No. CI 24-8152, before the Honorable Peter C. Bataillon.

Dated this 25th day of April, 2025.

BY THE COURT:



Brian C. Buescher  
United States District Judge